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CITY AND COUNTY OF SAN FRANCISCO

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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 SELINA KEENE, MELODY FOUNTILA,
14 MARK MCCLURE,
15 Plaintiffs,
16 vs.
17 CITY and COUNTY OF SAN FRANCISCO,
18 Defendant.

Case No. 4:22-cv-01587-JSW

**DEFENDANT CITY & COUNTY OF SAN
FRANCISCO'S ADMINISTRATIVE MOTION
TO SET CASE MANAGEMENT
CONFERENCE**

Civil Local Rule 7-11

Filed: March 14, 2022
Trial Date: None set.

INTRODUCTION

Pursuant to Local Rule 7-11, Defendant City and County of San Francisco (the “City”) hereby moves this Court set a Case Management Conference (“CMC”) for April 28, 2023 to coincide with the Case Management Conferences set in the five actions that have been related to this case. Good cause exists for granting this motion because, as further described below, setting all six related actions challenging the City’s COVID-19 Vaccination Policy for the same Case Management Conference will result in judicial economy.

ARGUMENT

A. Good Cause Exists for Setting a Case Management Conference in the *Keene* Action that Coincides with the April 28, 2023 Conference Set in the Related Vaccine Actions.

Plaintiffs Selina Keene, Melody Fountila, and Mark McClure’s action (“*Keene* Action”) against the City challenging its COVID-19 Vaccination Policy on religious grounds, filed on March 14, 2022, is the first of six related cases brought by current and former City employees challenging San Francisco’s COVID-19 Vaccination Policy. The five later-filed related cases are: *Gozum v. CCSF*, No. 4:22-cv-03975-JSW; *Guardado, et al. v. CCSF*, No. 4:22-cv-04319-JSW; *Shaheed, et al. v. CCSF*, No. 4:22-cv-06013-JSW; *Debrunner, et al. v. CCSF, et al.*, No. 4:22-cv-07455-JSW; *Cook v. CCSF*, No. 4:22-cv-07645-JSW (referred to collectively as “the Related Vaccine Actions”).¹

Plaintiffs originally named the City’s Mayor London Breed and Human Resources Director Carol Isen as defendants. Dkt. No. 1. On May 19, 2022, Defendants filed a Motion to Dismiss Mayor Breed and Human Resources Director Isen, and the City filed an Answer to the Complaint. Dkt. Nos. 15, 16. That same day, the Court *sua sponte* continued the previously scheduled Case Management Conference from June 17, 2022 to September 9, 2022. Dkt. No. 18. Four days later, on May 23, 2022, Plaintiffs Keene and Fountila filed a Motion for Preliminary Injunction *See* Dkt. No. 19.

With Mayor Breed and HR Director Isen’s Motion to Dismiss and Plaintiffs’ Motion for Preliminary Injunction both still pending, on August 22, 2022, the Court *sua sponte* vacated the Case Management Conference previously scheduled for September 9, 2022. Dkt. No. 26. Thereafter, on

¹ On March 30, 2023, the City filed an administrative motion seeking to relate a sixth action—*Sanders v. San Francisco Public Library, et al.*—to the *Keene* Action. Dkt. No. 50.

1 September 23, 2022, the Court issued an order granting Defendants' Motion to Dismiss Mayor Breed
2 and Human Resources Director Isen, denying Plaintiffs Keene and Fountila's Motion for Preliminary
3 Injunction, and setting a Case Management Conference for November 4, 2022. Dkt. No. 31.

4 On October 11, 2022, Plaintiffs Keene and Fountila filed a Notice of Appeal from the Court's
5 denial of their Motion for Preliminary Injunction. Dkt. No. 38. The Parties subsequently filed Case
6 Management Conference Statements indicating a desire to stay the matter pending appeal, and on
7 October 31, 2022, the Court vacated the Case Management Conference set for November 4, 2022. *See*
8 Dkt. Nos. 41, 42, 43. Plaintiffs' Ninth Circuit Appeal of the denial of their Motion for Preliminary
9 Injunction is fully briefed and the Court has set argument for April 18, 2023. Declaration of Lauren E.
10 Wood ("Wood Decl.") ¶ 2.

11 For reasons of judicial economy, the Case Management Conferences in the five Related
12 Vaccine Actions have all been set for April 28, 2023 at 11:00 a.m. *See* Dkt. No. 26 in *Gozum*, No.
13 4:22-cv-03975-JSW; Dkt. No. 36 in *Guardado*, 4:22-cv-04319-JSW; Dkt. No. 30 in *Shaheed*, No.
14 4:22-cv-06013; Dkt. No. 36 in *Debrunner*, No. 4:22-cv-07455-JSW, and Dkt. No. 22 in *Cook*, No.
15 4:22-cv-07645-JSW. Now that the interlocutory appeal in the *Keene* Action regarding the denial of
16 Plaintiffs' Motion for Preliminary Injunction will soon be resolved, a Case Management Conference
17 should be set in this case – the first-filed vaccine action – to coincide with the Case Management
18 Conferences set for April 28, 2023 in the Related Vaccine Actions, because this would result in
19 judicial economy.

20 The City anticipates that Plaintiffs will not oppose the City's motion. Pursuant to Local Rules
21 7-11 and 7-12, the City attempted to obtain a stipulation from Plaintiffs regarding the relief requested
22 in this motion. Through counsel, the City asked whether Plaintiffs would stipulate to requesting a Case
23 Management Conference on April 28, 2023 to coincide with the conferences set in the Related
24 Vaccine Actions. Wood Decl. ¶ 3. Plaintiffs' counsel asked the City to prepare and send a stipulation,
25 which the City promptly did that same day. *Id.* The City followed-up with Plaintiffs' counsel multiple
26 times regarding the stipulation, but Plaintiffs' counsel has not responded to approve or request
27 modification of the proposed stipulation. *Id.* ¶ 4. Accordingly, and because the desired Case
28 Management Conference date is less than one month away, it became necessary for the City to present

1 this request via administrative motion to ensure that the Court will have the opportunity to rule on the
2 request sufficiently in advance of both the requested Case Management Conference date and the
3 attendant deadline for submitting a Joint Case Management Conference Statement. *Id.*

4 **CONCLUSION**

5 For the above-stated reasons, City requests that the Court set a Case Management Conference
6 in this case for April 28, 2023 at 11:00 a.m. to promote the interests of justice and judicial economy.

7
8 Dated: March 30, 2023

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